

ARIZONA RACING COMMISSION

616TH REGULAR MEETING

WEDNESDAY, NOVEMBER 14, 2012

MINUTES OF REGULAR MEETING

A public meeting of the Arizona Racing Commission was convened on Wednesday, November 14, 2012, beginning at 10:30 a.m. in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

Present: **Chair** **A. Melvin McDonald**
 Vice-Chair **Burton S. Kruglick**
 Commissioner **Jay McClintock**
 Commissioner **Erin Owens**

Absent: **Commissioner** **Rory S. Goreé**

Also present: William J. Walsh, Director, Mary D. Williams, Assistant Attorney General, and Cassie Goodwin, Commission Secretary.

A. Call to Order

Chair McDonald called the 616th Regular Meeting of the Arizona Racing Commission to order at 10:34 a.m. The following matters were discussed, considered and decided at the meeting:

Approval of the Minutes:

1. Minutes of the 615th Regular Meeting held on Wednesday, September 12, 2012 – **Commissioner Owens** moved to approve the minutes. **Commissioner McClintock** seconded the motion. Motion Carried.

B. New Business

1. Proposed Amendments to Arizona Administrative Code R19-2-201 and -203 – Racing Regulation Fund to Eliminate the Regulatory Assessment on Purse Accounts

Director Walsh stated that the Department of Racing has been removed almost entirely from the state General Fund and has to obtain its funding from the industry it regulates. The four areas that were initially established for gathering the funds were (1) the Racing and Wagering Assessment (RWA), (2) Dark Day Simulcast fees, (3) License fees, and (4) Regulatory Assessment (RPA) on the purse accounts of the horse and greyhound owners. The law and the rule established required the Department to regularly monitor these sources of income to assure that the funds coming in did not exceed the Department's authority to spend. This is done on a regular basis and the Department continues to review both License Fees and the RWA and hopes to have a recommendation for the Commission at the December meeting. However, after much thought and a recommendation from ADOR Budget overseer Matt Gottheiner, the Department makes a recommendation to the Commission to eliminate the Regulatory Assessment on purse accounts. This is done for two reasons: 1. The assessment does not bring in a large amount of funding (approximately \$55,000 annually) and; 2. The oversight for both the Department and the race tracks is not worth the cost. The Department believes that the intention of this assessment (Medication Testing) is easily made up for with the funds obtained from the RWA. Therefore it is the recommendation of the Department that the rules package before the Commission be approved to eliminate the RPA. **Commissioner Owens** moved to approve the proposed amendments to A.A.C. R19-2-201 and -203 and delete the language assessing the purse accounts. **Commissioner Kruglick** seconded the motion. Motion Carried.

2. RT O'Sullivan's – Request for New Off Track Betting Facility

Director Walsh stated that RT O'Sullivan's, located at 6646 E Superstition Springs Blvd, Mesa, Arizona, has submitted an application for a new off-track betting site. The Department has reviewed the application and found it to be in compliance with the requirements of A.A.C. R19-2-405. **Commissioner Kruglick** moved to approve RT O'Sullivan's as an Off Track Betting site. **Commissioner McClintock** seconded the motion. Motion Carried.

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C. Information Reports

1. Department Monthly Update

a. Status Update on Yavapai Downs Racing in 2013

Director Walsh stated HBPA President Gary Miller put in a successful bid to purchase Yavapai Downs. Everyone is hopeful that it works out and gets through the process so that there will once again be racing in Prescott Valley. Mr. Miller has indicated he needs a month or two to do the due diligence and conduct inspections on needed repairs and the costs associated with them. Mr. Miller, who is not able to personally provide an update, has asked but Tom Metzen to provide a status report. **Tom Metzen, Executive Director of the HBPA**, addressed the Commission. He stated Mr. Miller was successful in getting the bid on Yavapai Downs, which they prefer to call Prescott Racing. He now has until January to complete the due diligence. He is in the process of the physical due diligence and, when that is completed, will do the financial portion. In addition to the roof, there are other repairs needed and there is a coyote in the grandstand they are working to remove. They are looking to open the track in May and run into September. For the first year they are looking at a 60-day meet with 60-days dark and then, if this is successful, expanding in future years. **Director Walsh** advised if Mr. Miller takes possession of the track he will need to submit an application and go through the process. Deputy Director Joyce Cozby has already received a request for the application and is working with everyone to keep the process moving so they can alleviate any problems and, hopefully, open in May. **Commissioner Kruglick** asked if Mr. Miller was going to keep the name Yavapai Downs. **Mr. Metzen** said the name will be changed. It is currently being referred to as Prescott Racing and they are working with the Town of Prescott Valley on this issue.

b. Breeder's Fund Report

Director Walsh stated in FY 2013, the Department received a \$250,000 General Fund appropriation for Arizona Breeders' Awards. Those funds will be distributed quarterly. Eleven thousand dollars (\$11,000) has already been distributed for the first quarter of the fiscal year, all to greyhound breeders. Two decisions had to be made as the Department distributed these funds. First, the \$250,000 had to be split up between breeders' awards for horses and awards for greyhounds. The Department also had to decide how much money will be distributed each quarter. To allocate the funds between horses and greyhounds, the Department used the FY 2012 total pari-mutuel handle. 17.6% came from the greyhound side of the industry. Applying that percentage to the \$250,000 appropriation meant \$44,000 for the year or \$11,000 during each quarter for greyhound breeders. The other \$206,000 will be distributed during the second, third and fourth quarters as breeders' awards for horses. The funds will be distributed in proportion to the number of live race days in each quarter. Presently, the Department plans to award \$77,000.00 in the second quarter, \$93,000 in the third quarter, and the remaining \$35,500 during the fourth quarter of this fiscal year. If Yavapai runs the Department will take another look at the distributions. **Commissioner Owens** asked if this is the only fiscal year the Department will have money to award. **Director Walsh** said the Legislature only passed \$250,000 for this year but there is a new budget process coming up and, hopefully, the Legislature will see the importance of providing these funds to the breeders and keeping horse racing alive in Arizona.

c. Update on Turf Paradise Opening

Director Walsh stated while there were some difficulties from time to time, it was a fairly good process. The major problem was with licensing people in a timely manner due to a large influx of applications. In years past, when Yavapai Downs was open, people racing there and were able to obtain their licenses prior to the start of the Turf Paradise Meeting. This was also true for the county fair racing. So for the licensing period beginning in July, the Department in the past would be licensing people as early as March. All of that went to the wayside with no county fair or Yavapai Downs racing. So when everyone came to Turf Paradise this fall, they hit the licensing office at the same time. Even though we had the licensing office open at the track part time during the summer and we received many applications from the local people including the racetrack employees, the office was packed. Unfortunately the office is small, and even though all three monitors were running to process the

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applicants, with that many people converging on a small place it was difficult and slow going. The Department is looking at the process for solutions to help alleviate the problem in the future.

The new procedure of bringing all horses on race day to a specific area at the track has gone well. Those who need to be at another barn have let us know and we are able to locate them when needed. This process has made it easier for the Identifier to keep things moving smoothly. It has created some unintended problems and there have been complaints of unlicensed individuals being on the backside now so we'll work with the HBPA and Quarter Horse people to solve this situation.

The Department continues to work on the Turf application. There were delays with questions and legal opinions as well as a setback with the Veriti review process when the person primarily responsible for this project had a personal tragedy. We've requested additional information from the parties and hope to get this process back on track and moving forward. The Department doesn't anticipate a final report until after the first of the year. **Vincent Francia, General Manager of Turf**, advised the Commission on the comparison figures for the first 25 days of the meet at Turf. The numbers are encouraging and he hopes to continue them for the next 125 days. **Vice Chair Kruglick** complimented Mr. Francia on the figures.

Mr. Francia said this is due to the entire team of management and the horsemen at Turf that makes this possible. **Commissioner McClintock** asked what attributed to the positive OTB simulcast handle. **Mr. Francia** said he attributes it mostly to California and New York's putting out field size which is very appealing and, secondly, they just had the Breeder's Cup, which is a two day event, at Santa Anita which influenced the numbers.

d. Animal Medication Testing, Research, Safety and Welfare

Director Walsh stated the HBPA has approached the Department with the request that it conduct TCO2 (milkshake) testing. This is a major concern to both the horsemen racing at Turf Paradise and quite obviously to the Department. However it is necessary to ensure that any such testing be able to withstand legal scrutiny. Had the Department been able to get its Medication rule approved (it still must get approval from the AG and the Governor's office), carrying out the testing would have been much easier. Still the Department is looking at ways to do this and a protocol for obtaining the samples and sending them to a lab are currently being worked on by Animal Medication and Welfare Adviser Scot Waterman with input from the Department's new Chief Horseracing Veterinarian, Ron Friedman. More information will be at a future meeting.

e. Award of Contract for Animal Post-Racing Drug Test and Related Oversight Issues

Director Walsh stated the Department of Racing, along with Arizona State Procurement Office, recently awarded the contract for conducting post-race testing to Industrial Laboratories of Denver, Colorado. Industrial has provided this service for several years and has done an excellent job. Additionally the lab has been in the forefront of testing research, most recently developing a test which discovered frog juice (demorphan), a drug that caused many problems in other states. We are currently reviewing our ability to add more tests to the number already being sent to Industrial. This has increased substantially in the past year and the Department hopes to do more in this regard. As was reported to the Commission in the past, the Department altered its threshold limits to deal with what it considered an abuse by some of the participants of certain medications. We hope these threshold reductions, along with stronger oversight and penalties from the stewards, will have a positive effect in the long term. After a rash of positives in the first several days of the meeting, things have settled down quite a bit and Industrial Laboratories is reporting very few pending tests (ones that need additional scrutiny by the lab) and even fewer positives in the past three weeks.

D. Commission Reports:

Director Walsh stated that this Agenda does not reflect the amount of work being done by the Department. A couple of weeks ago he went to Tucson and met with Pat White and Patty Shirley regarding the upcoming

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meet at Rillito, to resolve some of the opening issues before the meet gets started. They discussed the officials who will be working down there for them; Pat White has indicated she wants to have a set-aside area for haul-ins when Rillito opens, like the area at Turf. It was a good meeting and the Department looks forward to getting Rillito up and running again in January. The trade has also organized its operations to address the concerns brought up last year and will be submitting the information to the Department soon. The Department has also been working on issues at Tucson Greyhound Park. The City of Tucson has stopped the track from using small doses of drugs to keep female greyhounds from going into season which is going to create problems down the road for the track. The Governor's office is fully aware of what's going on.

Future Agenda Items:

Vice Chair Kruglick stated he thought it important for the Permittees and Industry Stakeholders to provide information at the meetings to keep everyone abreast of what's going on. **Director Walsh** advised he will be meeting with Loretta Brasher regarding County Fair racing.

1. A.A.C. R19-2-202 (Licensing Fees)
2. A.A.C. R19-2-205 (Regulatory Wagering Assessment of Pari-Mutuel Rules)

The next regular Commission meeting will be held **Wednesday, January 9, 2013, at 10:00 a.m.** in Building Conference Room Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

Call to the Public:

Steven Nolan addressed the Commission regarding his concerns at Turf Paradise racetrack.

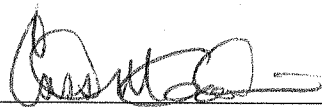
Adjournment:

Chair McDonald called for a Motion to Adjourn. **Commissioner McClintock** moved to adjourn the meeting. **Commissioner Kruglick** seconded the motion. Motion Carried.

This public meeting adjourned at 11:11 AM.

Dated this 12th day of December, 2012

Arizona Racing Commission

By 
Cassie Goodwin, Commission Secretary